

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

CONTINENTAL CASUALTY)
COMPANY,)
)
Plaintiff,)
)
vs.) CIVIL ACTION NO 04-0766-KD-C
)
COMPASS BANK,)
)
Defendant.)

ORDER

This matter is before the court on plaintiff's statement of appeal of Magistrate Judge William E. Cassady's December 15, 2005 (Doc. 199) sanctions order and supplemental submission in further support of its appeal of prior related orders (Doc. 211),¹ defendant's brief in opposition to plaintiff's statement of appeal and supplemental submission (Doc. 223) and plaintiff's response. (Doc. 225). Upon consideration of the pleadings and for the following reasons, plaintiff's appeal (Doc. 211) is **DENIED**.

Plaintiff raises basically two issues on appeal. First, plaintiff argues that Magistrate Judge Cassady erred by granting defendant's second motion for sanctions (Doc. 144) because he cites no obstructive tactic nor improper frustration of fair examination of the deponent as required by Rule 30 for consideration of sanctions. Second, plaintiff argues that "the magistrate erred, in effectively entering the protective relief sought yet failing to award plaintiff its reasonable expenses and fees incurred in making the motion." (Doc. 199).

Pursuant to FED. R. Civ. P. Rule 72(a), in reviewing a Magistrate Judge's order on a

¹ The undersigned entered an order on January 4, 2006 (Doc. 213) wherein the appeal of the prior August 8, 2005 order was addressed. Therefore, to the extent that plaintiff submits further support for that appeal, the submission is moot.

nondispositive matter, the court will set aside or modify an order only when it is found to be clearly erroneous or contrary to law. Additionally, the Local Rules for the Southern District of Alabama set forth the scope of review of a Magistrate Judge's decision and state that the "district judge shall modify, set aside, or remand to the magistrate judge any nondispositive order or portion thereof found to be clearly erroneous or contrary to law." See LR 72.3(e). The undersigned has carefully reviewed Magistrate Judge Cassady's prior order, the pleadings of the parties and the law presented in their respective arguments and finds that Magistrate Judge Cassady's order is not clearly erroneous or contrary to law. Accordingly, plaintiff's appeal (Doc. 211) is **DENIED**.

DONE this the 6th day of March, 2006.

s/ Kristi K. DuBose
KRISTI K. DuBOSE
UNITED STATES DISTRICT JUDGE